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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,585	01/15/2004	Jonathan W. Conaway	ECI06-GN015	5910
30074	7590	02/24/2006	EXAMINER	
TAFT, STETTINIUS & HOLLISTER LLP SUITE 1800 425 WALNUT STREET CINCINNATI, OH 45202-3957			SCHELL, LAURA C	
			ART UNIT	PAPER NUMBER
			3767	

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/758,585

Applicant(s)

CONAWAY, JONATHAN W.

Examiner

Laura C. Schell

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 and 23-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                               |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/8/2004</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Election/Restrictions***

During a telephone conversation with John Mueller on 2/6/2006 a provisional election was made without traverse to prosecute the invention of Group 1, claims 18-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-17 and 23-33 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Specification***

The disclosure is objected to because of the following informalities: in the first line of paragraph [0031] the smaller orifice is labeled as 60, but should be changed to 64. In the third line of paragraph [0032], the hollowed body is labeled as 54, but should be changed to 52. In the second line of paragraph [0034] "gravity feds" should be changed to "gravity fed". Appropriate correction is required.

### ***Claim Objections***

Claim 20 is objected to because of the following informalities: "liner path" should be changed to "linear path". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Morifuji (US Patent No. 4,886,494). Morifuji discloses a breast pump (Fig. 15) comprising: an interface (3) adapted to create a fluidic seal between a circumferential portion of the interface and a breast; a reservoir (A) in fluid communication with the interface for receiving milk drawn from the breast and passing by the interface; a sink (Fig. 10, 44b) in fluid communication with the interface, where the sink induces a reduced pressure approximate the interface to draw milk from the breast and past the interface and into the reservoir (col. 9, line 52 through col. 10, line 23); and a pressure regulator (Figs. 1 and 16, D) in fluid communication with the sink to regulate the reduced pressure approximate the interface; wherein the pressure regulator includes a valve seat (Fig. 16, 14) and a valve body (12 and 13) that are selectively repositionable to manipulate the reduced pressure approximate the interface by varying the proximity of the valve seat with respect to the valve body (col. 2, lines 5-48 and col. 3, lines 41-58). Morifuji further discloses that the pressure regulator includes a dial actuator (17) being repositionable in both a clockwise and counterclockwise direction to vary the proximity of the valve seat with respect to the valve body (col. 3, lines 41-58).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19, 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morifuji in view of Quay (US Patent No. 6,887,210). Morifuji discloses the device substantially as claimed except for a piston in the sink chamber traveling in an arcuate or linear path and a handle. Quay discloses a sink chamber (Fig. 17, 160) comprising a conduit having a piston (450 also described in col. 9, lines 36-55) riding therein, the piston being repositionable within the conduit to induce the reduced pressure approximate the interface. Quay further discloses that the piston travels within the conduit in a linear path (see Figs. 16 and 17) and that the piston is coupled to a handle (420) being repositionable by a user. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Morifuji with the piston and handle as taught by Quay, in order to provide a manually actuated breast pump that can have pressure regulated by the user. Furthermore, it is obvious to combine these references, as Quay teaches that the breast pump can be equipped with a pressure regulating valve (col. 33, lines 21-25).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Schell whose telephone number is (571) 272-7881. The examiner can normally be reached on Monday-Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MICHAEL J. HAYES  
PRIMARY EXAMINER